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ABSTRACT

The strength of academic freedom has always depended upon historical circumstances. In the United States, higher education began with institutions founded and controlled by religious sects. The notion of who gets educated and to what ends expanded as American democracy expanded. By the 1980's, legitimate calls for equality became a general debunking of the culture of 'dead white males' and higher education became highly politicized as multiculturalism came to dominate. The ethics of multiculturalism and academic freedom, however, have often come into conflict, with professors and students being accused of racism in lectures or discussions about race. Closely related to multiculturalism, in terms of academic freedom, is the notion of political correctness, or the adoption of official terminology deemed inoffensive to "victim groups," which has had a tremendous effect on the classroom environment and led to censorship of speech. New laws to control computer communication and the Internet also seek to censor ideas and speech and do not always distinguish between originators of material and media used to transmit them. Finally, academic tenure, one of the key protectors of academic freedom, has also come under attack as lacking accountability, although tenured faculty are needed to protect the integrity of the academy against managers who may only see the bottom line. Contains 19 references. (BCY)

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Academic Freedom

Brian G. Tobin

Paper presented at the English Council of California Two Year Colleges Statewide Conference
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Academic Freedom:

As per Lord Jenkins, Chancellor of the University of Oxford, it claims for academics: *the freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or privileges they may have at their institutions.*

Background:

Academic freedom has always depended on the historical circumstances. In both Germany and France the state funded most universities to provide well-trained graduates to serve the state. In Great Britain, on the other hand, businessmen founded most universities to provide well-trained servants of industry and empire. German and French universities thus felt considerable external control. British institutions lacked the state control, but felt the business authority. Consequently, academic freedom was always relative.

In the United States higher education gradually became a component of democracy. Devotees of religious sects founded and controlled most early colleges and universities, the focus of which were to turn out well-trained men of the cloth. By the early 1800s "booster" schools lent prestige to newfound communities. They thrived as long as the community had means

to support them. The big breakthrough in the democratization of higher education came with the land-grant schools following the Morrill Act of 1862 which gave federal land to individual states to build universities. Originally, the intent of the act was to create "Agricultural and Mechanical Colleges," but existing private schools and state universities were also able to snap up land-grant funds. The notion of who gets educated and to what ends expanded as American democracy expanded.

The number of institutions of higher learning in the United States grew from 563 in 1873 to nearly 1,000 by 1910. By 1935 the number had jumped to 1,500 with over one million students; by 1960 2,000 with over three million students; and by 1970 nearly 2,500 with over seven million students. This "New Education" was uniquely American in scope and content. Unlike the European model, geared to turning out the learned professional, American colleges and universities became the vague proprietors of individual "growth" by way of numerous options for study. "Co-education" (an American word), for example, grew out of this "New Education" during the era of land-grant colleges. The post-World War II civil rights movement greatly expanded opportunities for African-Americans and other minorities. Given these expansions and the American penchant for the glorification of the individual, it would inevitably follow that academic freedom would become a civil rights controversy.

Multiculturalism:

By the 1980s, what began as a legitimate call for equality in America's social, political, and economic systems became a general debunking of the culture of "dead white males." Affirmative action hirings and the

establishment of separate black and women's studies departments created a so-called *au courant* scholarship which rejected the western literary canon. Higher education became highly politicized. Racism and sexism were what the new scholarship said they were, and woe to scholars and administrators who went against the grain.

Duke University made a commitment to *au courant* scholarship as early as 1984. Dr. Stanley Fish, chairman of the Duke English Department, defended the trend as valid. He opined that merit is a political viewpoint and all educational decisions are political by nature. Thus, even academic freedom is relative. It must subserve itself to the agenda of minority activists. Situational ethics and academic freedom could come into conflict.

They did at Harvard University in 1988. Stephan Thernstrom, Winthrop Professor of history, was accused of racial insensitivity for reading aloud from plantation owners' journals and teaching about Jim Crow laws. Thernstrom was taken aback as much by the unfounded charges as by Harvard's lukewarm defense of academic freedom. Harvard's president warned professors to beware of "possible insensitivity."

Ian Macneil, Robert Braucher Visiting professor of law at Harvard in 1989, was taken to task for sexism for using a line from Byron's *Don Juan* to illustrate a legal concept: 'A little still she strove, and much repented,/And whispering, "I will ne'er consent."-consented.' The student head of the Harvard Women's Law Association read rape connotations into the quote. Macneil recounted bitterly, "The buzzword is sensitivity and the intimidation is intense."

Students too have felt the political pinch. In 1993 at the University of Pennsylvania a Jewish student was accused of racial harassment by calling a black sorority group "water buffaloes" for interrupting his studying. The University of Michigan punished a student for saying in a classroom discussion that homosexuality is a treatable disease. A Wisconsin speech code, later declared unconstitutional, forbade utterances that "demean anyone's race, sex, religion, color, creed, disability, sexual orientation, national origin, ancestry, or age." It further outlawed "an intimidating, hostile, or demeaning environment for education."

Even legitimate criticism became dangerous. UCLA suspended a student editor for making fun of affirmative action in a cartoon. Cal State Northridge disciplined an editor who had criticized UCLA.

On the other hand, in Mid-May of 1993 a federal jury concluded that City College of New York had violated the constitutional right of free speech in removing Leonard Jefferies as the chairman of their Black Studies Department. Jefferies, a dynamic Afrocentrist with a devoted following, had been vocal about his personal theories. Jefferies claimed that the Jewish community is largely responsible for the institutionalization of racism. His philosophy is that peoples of African descent have a "humanistic, spiritualistic value system" while European Americans are "egotistic, individualistic, and exploitive." His theories and beliefs are directly at odds with his colleague Edmund Gordon, former chairman of African and Afro-American studies at Yale, who questions Jefferies'

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commitment to scholarship. Gordon himself is a distinguished mainstream scholar.

Some see higher education as dominated by mainstream forces. The argument is that colleges and universities are corporations and so dominated by trustees who are conservative businesspeople. They have little patience for dissent. Critics have charged that during the 1970s and 80s Angela Davis, a communist, was let go at the University of California at Santa Cruz; The University of Chicago and McGill University fired Marlene Dixon, a Marxist, feminist, sociologist, for her political activism; and Stanford fired Professor Bruce Franklin for "inciting" students to demonstrate. Also, in 1987 four professors at the New England School of Law were fired allegedly for their involvement with a left-leaning study group which viewed the law as largely a tool of the corporations. Certainly, the excesses of the McCarthy era of the early 1950s have continued to make scholars wary.

By the 1990s all questions on campus involving race, gender, sexual orientation were highly politicized. To some extent, questions of freedom and accuracy had become questions of power and sensitivity. Minority and feminist groups argued about which group was the most oppressed. This "heightened sensitivity" translated into academic taboos and put administrators and faculty members on constant guard.

Harold Bloom, occupant of endowed chairs at both Yale and New York Universities, has accepted the "Balkanization" of literary studies, but

rejected the idea that social engineering could subvert the great works of literature for extra-literary purposes. He has blasted those in charge of American higher education for giving in to the "barbarians" and has put forth his argument for great works in his 1994 book, *The Western Canon: The Books and School of the Ages*. The battle has thus been joined.

Political Correctness:

Closely related to multiculturalism as far as academic freedom is concerned is the notion of political correctness. This is the blanket phrase for words and terminology deemed inoffensive to official and unofficial "victim groups." Official "victim groups" are those specifically covered by legislation such as the civil rights acts or the Americans with Disabilities Act; Unofficial groups are any which declare themselves such, for example a minority based on sexual orientation. The "handicapped" thus become the "otherwise abled," and same-sex marriages become examples of "diversity." The phrase also covers the changing definition of words in our pluralistic society. Family, for example, no longer means wife, husband, kids, and extended relatives. Political correctness is the essence of "sensitivity."

The serious subject of campus rape, for instance, has now come to include "psychological coercion" at Cornell and "inappropriate innuendo" at Swarthmore. The suggestion is that seduction is rape. The effect is to blur the distinction between normal sex and rape. Of course broader definitions result in higher rape statistics and more political leverage for certain interest groups.

The serious subject of campus bigotry has been likewise transformed. The buzz word is 'ethnoviolence.' The word includes any self-defined 'psychological injury.' At the University of Maryland-Baltimore County 'any incident of racial insensitivity' counts as 'ethnoviolence.' The Massachusetts Institute of Technology listed an ethnoviolent incidents such as a professor rarely calling on black students and asking only easy questions when he did, and asking a black student to drop a course.

Nothing is easy as far as the classroom is concerned. The serious subject of sexual harassment has assumed a new prominence. Professor J. Donald Silva, a tenured technical writing teacher at the University of New Hampshire, was accused of, and suspended for, sexual harassment for making such comments in class in the spring of 1992 as, "Belly-dancing is like Jell-O on a plate with a vibrator under the plate." He was never accused of any actual advances on female students. The allegations simply involved creating a "hostile" environment for female students. On appeal, a special panel, trained by an "equity specialist" from the university's affirmative action office, upheld the suspension. He was further ordered to enter counseling at his own expense. An official of the University of New Hampshire harassment prevention program summed up the Silva case in this wise: "If a person thinks she's been victimized, we're here to validate that experience."

The implications for freedom of expression are profound. Sixty-three year old Graydon Snyder has taught at the Chicago Theological Seminary for thirty years. He used a story from the Talmud to illustrate that sin involves intent. The story says that a man who accidentally falls off a roof and has

intercourse with a woman is innocent of sin. A student filed a harassment complaint and the seminary reprimanded Snyder. Saying he felt humiliated, Snyder commented, "People hear about sexual harassment and they suppose I went around pinching students."

Some wonder whether the multicultural cure and its attendant emphasis on political correctness are worse than the disease. All people of goodwill desire race and gender equity, but attempts by the academy to enforce mandatory politeness have created much angst. Critics believe that the symbols have become more important than the substance. Civil rights and censorship make poor bedfellows.

The Internet:

Computer communication has revived the censorship argument in higher education. Many states have either approved or are considering bills which would limit what people can transmit by computer. Congress has followed suit by overwhelmingly passing a bill which would ban 'indecent' material from the internet. Colleges, universities, and libraries are worried about liability claims for making certain information available to minors over the internet. School administrators see it as an issue of academic freedom if, for example, the ban included discussions about abortion.

Also, legal scholars claim that colleges and universities face a confusing patchwork of conflicting regulations in a medium which seems to transcend legal jurisdictions. A Georgia law was passed with very little public discussion. Its authors claim that it is designed to criminalize computer "terrorism" and restrict vulgar, obscene, or profane language. But the bill

is so loosely worded that it fails to distinguish between the originator of the message and the means used to transmit it. Prosecutors could then go after the institutions themselves. Also, because much contact among scholarly researchers takes place via the internet, unfavorable court decisions could eliminate the internet's value as an academic tool.

Some critics claim that the computer even inhibits original thought. They see it as numbing rather than stimulating. *The New England Journal of Medicine* has questioned the value of the internet as a research tool and suggested that it promotes rumor rather than scholarship. It will not accept articles already posted on the internet.

Beyond the research implications, is the larger issue of academic freedom. Any ban on indecency, which is a more restrictive legal definition than obscenity, could prohibit any material of a sexual nature even though it may have scientific, literary, or artistic value. A provision in the federal bill updates the 19th Century Comstock Act which banned "obscene, lewd, lascivious, or filthy" materials, including any related to abortion. Mary L. Pretz-Lawson, the head of telecommunications at Carnegie-Mellon University stated, "We have programs on campus about date rape, unwanted pregnancy, and reproductive health operations, so I don't see how we'd tolerate censorship of that kind of information in the electronic format." Clearly, all of this will be a matter for the courts to sort out well into the 21st Century.

Tenure:

The entire notion of academic freedom may finally turn on the practice of tenure. The justification for the academic practice of tenure flows from the goal of protecting academic freedom. This practice has come under attack as lacking accountability and responsibility. Critics cite "soft" support from civic and business leaders for protecting teachers from the standards which other workers must meet-produce or perish.

They further argue that the First Amendment protects freedom of speech, and so further protection by way of tenure is unnecessary. They call for flexible contracts and a post-tenure review system which would allow for institutional flexibility in allocating and reallocating resources.

On the other hand, the First Amendment may not be adequate. Regarding the aforementioned Silva case, Nan Stein from the Wellesley College Center for Research on Women commented in this wise, "I wish so much vigor would be applied to sex discrimination. I care about the First Amendment, but academic freedom is not a constitutional right. Being able to go to school unimpeded *is*." (emphasis hers).

And, some question the commitment of administrators to quality education and collegiality. In this new "age of management" the suspicion lurks that administrators see only the bottom line and tend to babble inane cliches about making our institutions "user friendly." Tenure is thus necessary to protect the integrity of the academy.

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